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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,259	11/21/2003	Edward Paul Carlin	9437Q	2809

27752 7590 04/17/2006

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CINCINNATI, OH 45224

EXAMINER

HAND, MELANIE JO

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 04/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/719,259	<b>Applicant(s)</b> CARLIN ET AL.	
	<b>Examiner</b> Melanie J. Hand	<b>Art Unit</b> 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 February 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/2/06</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed February 1, 2006 with respect to the double patenting rejection of claims 1-19 are moot in view of the filing of a terminal disclaimer on February 1, 2006.

Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection. Examiner asserts that Schoelling does in fact teach both that the vertices are evenly spaced, and that there are multiple widths between a first and second distal vertex. The vertices are evenly spaced apart owing to their identical shapes and dimensions with respect to one another and, because they are all identically tear-shaped, there exist multiple widths between those vertices, and those multiple widths are equal in magnitude to the corresponding width between a second set of adjacent vertices.

### ***Terminal Disclaimer***

The terminal disclaimer filed on February 1, 2006 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of any patent granted on Application No. 10/719,785 has been reviewed and is accepted. The terminal disclaimer has been recorded.

***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on February 2, 2006 was filed after the mailing date of the Application on November 21, 2003. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Schoelling ('859).

With respect to **Claims 1,10**: Schoelling teaches a tampon made of compressed fibrous material with an insertion end, a recovery end, longitudinal and radial axes, and an outer surface with longitudinal ribs (first and second surfaces) that form vertexes in both the distal and proximal portions of the tampon wherein a vertex is defined as a point of intersection of lines. (¶ 0009)

With respect to **Claims 2,11,12**: The vertices are parallel with both the longitudinal and horizontal axis as shown in Figures 1 and 2 taught by Schoelling.

With respect to **Claims 3,4,13,14**: The surfaces, grooves and ribs taught by Schoelling are indeed spirally shaped, and the vertices are evenly spaced. (Fig. 1, ¶ 0009)

With respect to **Claims 5-7,15-17**: The tampon taught by Shoelling can either have a uniform density over a cross-section or ribs that extend radially outward from a highly compressed core (§ 0009), producing a tampon cross-section exhibiting varying density.

With respect to **Claims 8,9,18,19**: Schoelling teaches recovery tape 35 as well as a finger indent on the recovery end of the tampon. (Fig. 1, § 0040)

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie J. Hand whose telephone number is 571-272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Melanie J Hand  
Examiner  
Art Unit 3761

MJH

TATYANA ZALUKAEVA  
SUPERVISOR PRIMARY EXAMINER  
